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SUMMARY OF TITLES I, II, AND VIII OF H.R. 3 "TRADE AND INTERNATIONAL ECONOMIC POLICY REFORM ACT OF 1987"

AS ORDERED REPORTED BY THE COMMITTEE ON WAYS AND MEANS ON MARCH 25, 1987

MARCH 26, 1987

Prepared by the staff for use of the Committee on Ways and Means

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SUMMARY OF TITLES I, II, AND VIII OF H.R. 3,
THE TRADE AND INTERNATIONAL ECONOMIC POLICY REFORM ACT OF 1987,
AS ORDERED REPORTED BY THE COMMITTEE ON WAYS AND MEANS
ON MARCH 25, 1987

This document contains a summary of Titles I, II, and VIII of H.R. 3, the Trade and International Economic Policy Reform Act of 1987, as ordered reported by the Committee on Ways and Means on Wednesday, March 25, 1987.

The Committee ordered favorably reported, by recorded vote of 34-2, a substitute amendment for the original language of Titles I, II, and VIII which makes several modifications.

The Committee expects to file its report on this legislation on Monday, April 6, 1987. A detailed summary of the Committee's recommendations follows.

TITLE I. TRADE LAW AMENDMENTS

A. FINDINGS AND ACTIONS REGARDING THE U.S. TRADE DEFICIT AND TRADE DEFICIT REDUCTION

I. FINDINGS

Contains numerous findings regarding the U.S. trade imbalance, its causes and effects on the U.S. and world economy, and the need for deficit reduction, including the following:

A. The U.S. is confronted with a fundamental disequilibrium in its trade and current account balances and a rapid increase in its net external debt.

B. This imbalance is a result of numerous factors, including: disparities between the macroeconomic policies of the major trading nations; the large U.S. budget deficit; instabilities and structural defects in the world trade and monetary system; the growth of debt throughout the developing world; governmental distortions and barriers; and serious inadequacies in U.S. trade policy.

C. A continuation of these deficits, coupled with a further accumulation of external debt, will seriously undermine the U.S. economy. This will hasten the decline in living standards of workers and consumers and will increase unemployment. Over time, these changes in U.S. economic conditions will bring about worldwide economic disruptions and stagnation of world trade, thus jeopardizing the economic security of the free world.

D. It is, therefore, essential that the U.S. pursue a broad array of domestic and international policies to

ensure future stability in its external trade and to guarantee the continued vitality of America's technological, industrial and agricultural base.

II. PRESIDENTIAL ACTION REGARDING TRADE DEFICIT REDUCTION

Sets forth a statement of U.S. policy regarding progressive reduction of the U.S. trade deficit and requires Presidential action in numerous areas to achieve this goal. Requires the President to report annually to Congress and explain progress toward such goals.

A. States that it shall be the policy of the United States to reduce substantially its trade and current account deficits and to seek to achieve, no later than 1992, a more consistent equilibrium in such accounts.

B. States further that it is the policy of the United States to maintain a system of reasonably stable exchange rates through greater cooperation and leadership within the international financial system.

C. The President is directed by the Congress to use all appropriate powers to achieve these objectives, including:

1. Recommending to the Congress appropriate changes in fiscal, regulatory or general economic policy;

2. Greater efforts to coordinate economic and monetary policy with major U.S. trading partners;

3. More effective use of trade policy measures (including those authorized under this Act) to expand markets for U.S. exports, discipline unfair trade policies of other nations and negotiate a more open world trading system; and

4. Better management of Third World debt.

D. The President is required to report to the Congress on an annual basis, in conjunction with his annual trade policy statement -- as to his progress in reducing the trade deficit -- whether he is achieving the goals of deficit reduction and if not, why.

B. ENFORCEMENT OF U.S. RIGHTS UNDER TRADE AGREEMENTS AND RESPONSE TO CERTAIN FOREIGN TRADE PRACTICES

I. SECTION 301 REFORM

A. Transfers Decision-making Authority. Transfers to the U.S. Trade Representative (USTR), from the President, the authority to make determinations of whether foreign practices meet section 301 criteria. Also transfers to the USTR, subject to the direction of the President, the authorities to determine whether action is appropriate and to implement such action in all cases for which mandatory action is required. The President would retain the authority to decide and implement action, based on USTR recommendations, in other cases.

B. Makes 301 Action Mandatory for Foreign Trade Agreement Violations. Requires that in cases involving foreign violations of trade agreements or other "unjustifiable" practices, the President must retaliate in an amount equivalent in value to the foreign burden or restriction (The form of retaliation would be at his discretion, with preference given to tariff, rather

than quota, restrictions.); the President must report to Congress on each action. No retaliation would be required if:

1. The GATT determines the practice is not a violation of U.S. rights or does not deny trade agreement benefits.

2. The foreign government has agreed to eliminate or phase out the practice or has agreed to a satisfactory imminent solution of the burden or restriction on U.S. commerce.

3. If number 1 or 2 cannot be achieved, the foreign country has agreed to provide satisfactory full compensatory trade benefits.

4. The President determines such action is not in the national economic interest, because economic interests would be more adversely affected if action were taken than if not, and he reports the reasons to the Congress.

With respect to cases involving "unreasonable" or "discriminatory practices," which do not violate U.S. rights, the President would retain discretionary authority to retaliate.

Requires the President to take into account the likely impact on agricultural exports of imposing section 301 import restrictions.

C. Adds specific authority to remove or deny duty-free treatment under the Generalized System of Preferences (GSP) with respect to a country or on any products as a section 301 action.

D. Disciplines Export Targeting. Applies section 301 specifically to cases where export targeting exists and is, or threatens to be, a significant burden or restriction on U.S. commerce. The USTR must make a determination within six months after the investigation is initiated.

Presidential action is mandatory if targeting is a significant burden or restriction, unless he finds it is not in the national economic interest because such interests would be more adversely affected if action were taken than if not. If targeting threatens to be a significant burden or restriction, the President retains discretionary authority to retaliate.

Actions could include retaliation in an amount equivalent in value to the significant burden, restriction, or agreement by the foreign country to solve the burden or restriction or to provide compensatory trade benefits. The President may also take administrative actions or propose legislation to restore or improve the industry's international competitive position. Action must reflect, to the extent possible, the full benefit level of the targeting policy or practice over the period it has an effect.

If the national economic interest waiver is exercised, the President must convene a private sector panel of experts, including representatives of the domestic industry and labor, to advise on measures to promote the industry's competitiveness. The panel must report to the President within six months; the President must forward the report to the Congress with his recommendations.

E. Amends the definition of "unreasonable" acts, policies, or practices actionable under section 301:

1. Includes the denial of certain worker rights. The USTR may determine the act, policy, or practice does not exist if the foreign country has taken, or is taking, steps that demonstrate significant and measurable overall advancement to afford such rights.

2. Takes into account, as appropriate, reciprocal opportunities in the U.S. for foreign nationals and firms in determining whether an act, policy, or practice is "unreasonable."

3. Includes the toleration by a foreign government of systematic anti-competitive activities by private firms, or among private firms in that country, that have the effect of restricting, on a basis that is inconsistent with commercial considerations, access of United States goods to purchasing by such firms.

F. Reduces and Imposes Time Limits for Action. Requires USTR determinations on whether an act, policy, or practice is actionable under section 301 in all cases. Requires recommendations to the President on action, if any, within a maximum of 18 months in all non-subsidy GATT cases (may be extended up to three months if additional time is needed before foreign consultations to prepare the international case); requires President to decide and implement any action within 30 days thereafter in all cases, except he may delay implementation for up to six months if substantial progress is being made, or delay is necessary or desirable to achieve U.S. rights or a satisfactory solution, or the petitioner requests delay.

G. Adds investigation procedures relating to the obtaining and use of information from foreign countries; provides for consultations with affected domestic interests (firm, worker, consumer, export) prior to foreign consultations and dispute settlement and prior to recommendations on action, including consultations with industry and labor about action in export targeting cases.

H. Adds modification and termination; monitoring; and compensation authority:

1. Allows modification or termination of section 301 retaliation at any time if the GATT subsequently finds the foreign practice is not illegal, the practice is eliminated, or retaliation is ineffective. USTR must conduct a biennial review of all section 301 actions and may recommend, after consultation with domestic interests, modification or termination.

   Adds a requirement that the semiannual report to the Congress on section 301 cases describe the commercial effects of any actions.

2. Requires the USTR to monitor foreign country implementation of, or compliance with, any agreement to grant U.S. rights, to eliminate or phase out its practice, to remove the burden or restriction on U.S. commerce, or to provide compensatory benefits. If the foreign country is not implementing or complying with a settlement agreement,

the USTR must recommend to the President what action he should take under section 301, subject to the mandatory retaliation provisions and to the time limits and procedural requirements for initial section 301 actions.

3. Allows compensation to adversely affected foreign countries if section 301 retaliation violates GATT.

I. Establishes an Office of Unfair Trade Investigations within the Office of the USTR to prepare the annual report on foreign trade barriers and to coordinate interagency resources on section 301 cases. Adds requirements that the report identify certain foreign practices for possible further action.

J. Adds a new section 301(a), Mandatory Negotiations and Actions Regarding Foreign Countries Having Excessive and Unwarranted Trade Surpluses with the United States.

1. Excessive Surplus Determination. The International Trade Commission (ITC) must make an annual determination as to whether any "major U.S. trading partner" (countries with more than $7 billion in trade with the U.S. in 1985 adjusted annually thereafter) maintains an "excessive trade surplus" (a ratio of bilateral nonpetroleum exports over nonpetroleum imports of 175 percent; a total bilateral nonpetroleum surplus with the United States in excess of $3 billion; and a global trade surplus). No ITC determinations are required if the U.S. merchandise trade deficit is less than 1.5 percent of GNP.

2. Unwarranted Surplus Determination. Within 15 days after the ITC determination, the USTR must determine whether any "excessive surplus" country maintains a pattern of unjustifiable, unreasonable or discriminatory trade policies or practices that have a significant adverse effect on United States commerce and contribute to the excessive trade surplus of that country, based upon the section 181 annual report, findings under section 301 or antidumping and countervailing duty laws, and other relevant information (including GATT findings). If the USTR finds in the affirmative, then items 3, 4, and 5 would apply.

3. Negotiations and agreements to achieve elimination or reduction of unwarranted practices. The USTR is required to enter into negotiations with each "excessive and unwarranted" surplus country. The purpose of such negotiations is to achieve a more balanced and reciprocal bilateral trading relationship through an arrangement which:

(a) substantially reduces such country's "unwarranted" policies, or

(b) substantially reduces the effects of such policies on U.S. commerce.

In determining whether such an arrangement is satisfactory, the USTR shall, to the extent possible, estimate the commercial value of such country's "unwarranted policies" and shall be satisfied that the arrangement will allow U.S. firms a realistic opportunity to improve their share of bilateral trade by such an amount.

4. Action by the USTR if no satisfactory agreement is reached. If, after six months (with a two-month extension for compelling reasons) the USTR is unable to conclude a satisfactory arrangement, then he shall immediately take action against all unjustifiable, unreasonable or discriminatory policies or practices found to exist (either during his initial determination of "unwarranted surplus countries" or during negotiations) in an amount equivalent to the burden or restriction caused by these policies or practices. The USTR could take any of the following actions:

   (a) suspend, withdraw, or prevent the application of trade agreement concession benefits with that country.

   (b) direct customs officers to assess duties or impose other import restrictions on the products of that country for such time, in such an amount, and to such a degree as the USTR determines appropriate.

   (c) take any other action authorized under existing law.

5. Waiver authority. The USTR would be permitted to waive retaliatory action against some or all of the foreign "unwarranted policies" if:

   (a) in the case of unjustifiable policies or practices, he determines that retaliation would cause substantial harm to the national economic interests of the U.S.

   (b) in the case of other practices (unreasonable, discriminatory), the economic harm of retaliation would be greater than the harm caused by the foreign policy or practice.

   The Congress would have 60 days to disapprove the USTR waiver under the section 151 fast-track provisions.

6. Further authorized action against currency manipulation. The Secretary of the Treasury would be required to determine whether any "excessive surplus country" is maintaining its currency at an artificially low level in a manner that does not reflect the country's underlying competitive strength in world markets. If he finds affirmative, Treasury must negotiate with such country to seek a more realistic alignment of its currency. If such negotiations have not achieved a satisfactory result, the Treasury Secretary may impose an exchange rate equalization tariff to offset the effects of such misalignment.

C. IMPORT RELIEF, SUBSIDIES, DUMPING, AND OTHER UNFAIR TRADE PRACTICES

I. SECTION 201 REFORM

A. Transfers the decision-making authority from the President to the USTR.

B. Authorizes temporary emergency import relief for perishable products if the ITC has monitored imports of a perishable product for at least 90 days, and finds (within 21 days of a section 201 petition) a

reasonable indication that such industry is vulnerable to serious injury from increased imports. In such a case, the USTR would grant provisional import relief (tariffs, quotas, or suspension of liquidation), unless he determined relief not to be in the national economic interest.

C. Authorizes provisional import relief (suspension of liquidation and retroactivity of any relief granted by the USTR) if the ITC makes an affirmative injury determination and also determines that critical circumstances exist. Suspension of liquidation would go into effect upon the ITC's affirmative determination; but the USTR could withdraw it if the USTR decides provisional relief is not in the national economic interest.

D. Allows a petitioner to submit, at any time prior to the ITC injury determination, a statement of proposed adjustment measures. Such statement should include an assessment of problems facing the industry, recommendations on actions the domestic industry could take to enhance competitiveness or facilitate adjustment, recommendations on actions the government could take, and an explanation of how import relief will assist in achieving such objectives.

E. Provides the petitioner with an opportunity to consult with other members of the domestic industry and with the USTR and other government officials concerning recommendations which might be appropriate to include in a statement of proposed adjustment measures.

F. Requires the ITC to make its injury determination and, where appropriate, its critical circumstances determination, within four months of the petition.

G. Makes certain amendments to the factors which the ITC must consider in its injury analysis, to ensure that only domestic production is included, and to include diversion and capital formation ability when considering threat of serious injury.

H. Clarifies that, in determining whether imports are a substantial cause of serious injury, the ITC shall not aggregate factors relating to recession and consider them as one single cause of injury.

I. Authorizes the ITC to consider the seasonal nature of perishable agricultural imports and the impact of such imports on domestic producers who harvest or market during that season or period of the year, both in determining injury and in recommending appropriate relief.

J. Authorizes the ITC, in appropriate circumstances, to disregard imports into geographically isolated markets for purposes of determining serious injury and appropriate remedy.

K. Provides that if the ITC makes an affirmative injury determination, workers and firms within the injured industry would be automatically certified as eligible to apply for trade adjustment assistance (TAA) benefits (whether or not the USTR ultimately provides import relief), if petitions are filed within three years after the injury determination.

L. Requires the ITC to make a remedy recommendation within two months of its injury determination. The

ITC shall recommend relief that will be most effective to prevent or remedy the serious injury and facilitate long-term competitiveness or, if relief will not necessarily facilitate competitiveness, the relief that will prevent or remedy the serious injury.

M. Expands the remedy options which the ITC may consider to include negotiation of orderly marketing agreements.

N. Requires the ITC to consider proposed adjustment measures and conditions of competition in determining what remedy to recommend.

O. Requires the ITC, in its report to the USTR, to estimate the effects of the recommended relief on consumers, on other sectors of the economy, and on taxpayers, communities, and workers.

P. Requires the USTR to provide such relief as is necessary to prevent or remedy the serious injury and facilitate adjustment, unless the USTR determines (1) the provision of any relief would threaten national security, or (2) the economic costs of providing any relief are so great they outweigh the economic and social benefits of providing relief.

Q. Expands the remedy options which USTR may consider to include international negotiations to address the underlying cause of the import problem.

R. Requires the ITC to report annually on the efforts made by the domestic industry to adjust and on conditions of competition in the industry.

S. Authorizes the ITC to recommend modifications in the form or level of relief granted, as appropriate to account for changed economic circumstances. USTR would have 21 days to approve or disapprove any modification recommended by ITC.

II. TRADE ADJUSTMENT ASSISTANCE

A. Creates greater incentives to encourage training and reemployment under the worker trade adjustment assistance (TAA) program:

1. Entitles a worker approved for training to a voucher in an amount not to exceed $4,000 to be used for training, remedial education, or relocation.

2. Provides a worker taking a new job paying less than his previous job the option to collect up to 50 percent of his weekly trade readjustment allowance (TRA) entitlement as a supplemental wage allowance, up to 80 percent of his previous wage.

3. Requires a worker to be enrolled in training or remedial education in order to receive TRA benefits, unless his plant has not closed permanently.

4. Requires State administering agencies to provide full information to workers about the TAA program at the time a worker files for unemployment compensation.

B. Authorizes the Secretary of Commerce to provide grants or loans, not to exceed $1 million, to support

training programs administered by educational institutions and firms for workers eligible for TAA.

C. Establishes an Adjustment Assistance Trust Fund, consisting of revenues generated by import relief granted under section 201, collected in section 301 actions, and by auctioning of import licenses. Such revenues will be earmarked for use in trade adjustment assistance and community assistance programs.

The USTR must seek an international agreement to permit imposition of an import fee to finance worker adjustment assistance and, if successful, impose such a fee.

III. MARKET DISRUPTION BY NONMARKET ECONOMY IMPORTS

Amends section 406 of the Trade Act of 1974 in the following ways:

A. Provides for application of section 406 to "nonmarket economy countries" rather than "communist countries."

B. Replaces the requirement that imports be increasing "rapidly" with the requirement (currently in section 201) that imports be increasing (either absolutely or relative to domestic production).

C. Lowers the causation test from "significant cause of material injury" to "important cause of material injury".

D. In determining market disruption, requires the ITC to consider a number of factors, including the volume of imports, the effect of imports on U.S. prices, the impact of imports on U.S. producers (all factors currently used in determining material injury) as well as evidence of disruptive pricing practices, or other efforts to unfairly manage trade patterns.

E. Requires the ITC, in appropriate cases, to cumulate imports from two or more nonmarket economies subject to investigation.

F. Authorizes a variable tariff remedy, based on average domestic and import prices.

G. Defers the effective date of these amendments for countries with whom the U.S. has conflicting obligations under a bilateral agreement.

IV. AMENDMENTS TO COUNTERVAILING AND ANTIDUMPING DUTY LAWS

A. Amends the definition of "domestic industry" to include only domestic operations of U.S. producers for purposes of determining injury. Also clarifies that the ITC may consider growers or producers of raw agricultural products as part of the domestic industry producing a processed agricultural product if two conditions exist: (1) the processed product is produced from the raw agricultural product through a single continuous line of production, and (2) there is a substantial coincidence of economic interest between the growers and the processors.

B. Expands the definition of "interested party" to include a coalition or trade association which is representative both of growers and processors of a processed agricultural product.

C. As a substitute for the resource input subsidy provision, clarifies that the determination as to whether a domestic subsidy is countervailable must be based on whether the actual effect of such subsidy as bestowed aids a specific industry, or groups of industries, rather than on a mere examination of the legal nature of the subsidy program. Also provides for the use of external benchmarks, under appropriate circumstances, in determining the existence of, and in measuring the amount of, subsidy.

D. Amends the countervailing duty law to provide for its application to nonmarket economy countries to the extent that a subsidy can be identified and measured.

E. Amends the antidumping law to provide for consideration of diversionary input dumping--the purchase by a foreign manufacturer of a major material or component which has previously been found by the Commerce Department to have been sold at less than fair value in the United States. The provision would only apply if imports of the major material or component into the United States have declined while imports of the manufactured product currently under investigation have increased. If diversionary input dumping is occurring, then Commerce shall use constructed value as the basis for determining the foreign market value of the manufactured imports, and shall make adjustments to reflect the benefit bestowed to the manufacturer as a result of the purchase of the material or component at less than fair value.

F. Adds a new provision on multiple dumping offenses which (1) provides new procedures for monitoring imports in a particular product category from a particular foreign manufacturer whose products have been subject to dumping findings; (2) provides for self-initiation of expedited antidumping investigations when such monitoring indicates that further dumping may be occurring; (3) provides a rebuttable presumption of "intent to injure" under the Antidumping Act of 1916 for cases filed against a foreign manufacturer subject to three or more dumping findings within ten years; and (4) provides for compensation to domestic producers who have been injured by reason of dumped imports, to be funded by dumping duties collected.

G. Repeals the criminal penalties under the Antidumping Act of 1916.

H. Amends procedures under the antidumping and countervailing duty laws to prevent circumvention of final orders through assembly or finishing operations or minor alterations of merchandise entered. Clarifies that "minor alterations" includes minor processing, even if such processing results in a different TSUS number.

I. Clarifies that the ITC is required, in its material injury analysis, to consider each of the specified factors in every case, and to explain its analysis of each factor so considered. Also clarifies that, in examining the impact of imports on domestic producers, no single factor should be dispositive.

J. Authorizes the ITC to disregard, in appropriate circumstances, imports into geographically isolated markets for purposes of determining material injury and appropriate remedy.

K. Provides for additional factors for the ITC to consider in determining whether there is a threat of material injury by reason of dumped or subsidized imports: (a) diversion of exports to the U.S. market; (b) repeated dumping in world markets, as evidenced by antidumping findings in other GATT countries; and (c) likelihood of product-shifting in cases involving imports both of raw and processed agricultural products.

L. Requires the ITC, in determining material injury and, to the extent practicable, threat of material injury, to cumulate the impact of imports from two or more countries, if such imports were subject either to countervailing duty or antidumping investigations within the past 12 months, unless such imports are negligible in volume and effects.

M. Provides new procedures to monitor imports of downstream products to assist in identifying the diversionary impact of significant antidumping and countervailing duties on major materials or parts. Commerce would determine which downstream products are appropriate to be monitored, and the ITC would monitor levels of trade in these products and provide quarterly reports.

N. Prohibits antidumping and countervailing duties paid on imported merchandise from being eligible for refund under drawback provisions. Prohibits any U.S. Government purchases of dumped or subsidized merchandise from being exempt from antidumping or countervailing duties.

O. Requires submissions from parties involved in an antidumping or countervailing duty proceeding to be certified as to their accuracy. Amends procedures for disclosure of confidential information under administrative protective order. Requires Commerce to explain decisions which deviate from prior precedents and to correct clerical errors within a limited time period.

P. Requires an ITC material injury investigation on any outstanding countervailing duty order or pending investigation on duty-free merchandise upon Commerce's notification that an injury investigation is required by U.S. international obligations, as determined by the USTR.

Q. Requires Commerce to study and report to Congress within one year on market-oriented reforms being undertaken by the People's Republic of China and on their implications for application of the U.S. antidumping law to imports from China.

R. Requires the USTR to review Subsidies Code commitments undertaken by various countries with the United States and report within six months on whether commitments have been met and how to improve compliance or implementation of such commitments.

V. INTELLECTUAL PROPERTY RIGHTS

A. Improves the effectiveness of intellectual property protection under section 337:

1. Eliminates the injury requirement in intellectual property rights cases. (The domestic industry requirement is retained with an expanded definition.)

2. Shortens time period for issuance of temporary exclusion orders to 90 days after initiation (extension of 60 days permitted for more complicated cases).

3. Clarifies that cease and desist orders may be issued "in addition to or in lieu" of exclusion orders and increases the penalty for violations of such orders to "$10,000 or twice the domestic value of the articles."

4. Provides for the ITC to use default procedures against persons who have been served with notice of proceedings and fail to appear to answer complaint in cases where petitioner seeks relief solely affecting that person.

5. In cases where a party previously found to be in violation petitions the ITC, the burden of proof that he is no longer in violation is on the petitioner and relief may be granted only on the basis of new evidence or on other grounds permissable under the Federal Rules of Civil Procedure.

6. Provides procedures for treating confidential information submitted in section 337 cases.

7. Explictly authorizes the ITC to issue consent orders as the basis of settlement agreements.

8. Allows the ITC to prescribe sanctions for abuse of discovery and abuse of process.

9. Transfers to the USTR (from the President) authority to review and disapprove ITC determinations and proposed actions.

B. Creates a mechanism to improve international intellectual property rights protection through identification by the USTR of foreign priority countries and self-initiation of section 301 investigations. Section 301 procedures apply generally in such investigations, except that a recommendation to the President for possible action is required within six months of initiation, with a possible six-month extension in certain circumstances.

D. TRADE NEGOTIATING OBJECTIVES AND AUTHORITY

A. Extends existing nontariff agreement negotiating authority (section 102), subject to "fast track" Congressional approval of implementing legislation, for four years (until January 3, 1991), with an automatic extension for an additional two years (until January 3, 1993) if (1) the USTR consults with, and submits a report to, the Committees on Ways and Means and Finance describing progress made and the need for continued authority; and (2) neither Committee disapproves within 60 legislative days.

Expands the nontariff agreement authority to specifically authorize its subsequent use for an implementing bill to approve the International Convention on the Harmonized Commodity Description and Coding System and to implement the System nomenclature in the U.S. customs tariff.

Extends the existing bilateral trade agreement authority for six years (until January 3, 1993),

except for negotiations underway as of January 1, 1987 (Canada). Requires the USTR to identify, and consult with the Committees on Ways and Means and Finance, on foreign countries that have the best potential for bilateral free trade area relationships with the United States.

B. Grants the President six-year authority (until January 3, 1993) for tariff agreements and to proclaim reductions, continuations, or increases of U.S. duties. Duty reductions on a particular article cannot exceed 60 percent if the ITC or the USTR determine that any greater reduction on the particular article would have a probable significant adverse economic effect on the domestic industry. Any reductions on such items must be phased in over a 10-year period; reductions on any other import-sensitive articles must be phased in over a period up to 10 years.

C. Grants the President five-year authority to enter into, and to proclaim, tariff agreements with Canada reducing or eliminating duties on a specific list of tariff items.

D. Adds compensation authority, if required by international obligations, for import restrictions imposed by legislation or tariff reclassification.

E. Links Agreement Authority to Negotiating Objectives. Requires a Presidential determination that an agreement achieves applicable overall and specific negotiating objectives (set forth below) and a statement explaining which objectives it does or does not achieve. The statement must also describe efforts to achieve international exchange rate equilibrium and any effects of the agreement on international monetary stability. Requires consultations with Congress and private sector reports on the achievement of objectives.

F. Conditional MFN. Requires the President to recommend application of agreement benefits solely to signatory countries assuming obligations, if appropriate and consistent with the agreement and U.S. international obligations.

G. Sets Forth U.S. Objectives for Trade Negotiations --

1. Overall objectives -- open, equitable, and reciprocal market access; trade barrier reduction; more effective international trading system.

2. Specific objectives --

   a. agriculture
   b. dispute settlement
   c. unfair trade practices
   d. services
   e. intellectual property rights
   f. foreign direct investment
   g. import safeguards
   h. improvement of GATT and MTN agreements
   i. specific barriers
   j. worker rights
   k. access to high technology
   l. LDC graduation
   m. current account surpluses
   n. trade and monetary coordination

3. Types of agreements -- objectives are to be achieved through multilateral agreements when feasible, but bilateral or other agreements should be negotiated where more effective or appropriate or if multilateral are not feasible.

H. Provides authority for the President to proclaim modifications of certain U.S. duties in order to implement tariff reductions agreed to by the United States in the bilateral agreement with the European Community concluded on February 24, 1987, with respect to citrus and pasta.

E. TRADE FUNCTIONS

A. Strengthens the Role of the U.S. Trade Representative. Specifies that the USTR has primary responsibility for developing and coordinating implementation of international trade policy, international trade negotiations, and trade policy guidance, and is principal trade spokesman; the USTR must consult and be advised by the interagency trade organization.

Expresses the sense of Congress that the USTR should be the senior representative on any body the President establishes dealing predominantly with international trade matters and should be a participant in all meetings where international trade is a major topic.

Specifies the agency membership of the statutory interagency trade organization, chaired by the USTR, to assist the President and to advise the USTR; expands the organization's responsibilities to specifically include development and implementation of U.S. trade policy objectives.

B. Transfers Decision-making Authority. Transfers authorities from the President to the USTR under section 406 (market disruption), section 337 (unfair trade practices), and the GSP.

C. Establishes a Trade Policy Agenda. Requires the USTR to submit an annual statement to the Committees on Ways and Means and Finance setting forth trade policy objectives and priorities; actions and legislation to achieve them; and progress made toward their accomplishment; the USTR must consult with such Committees on objectives and their status.

F. CONSULTATION AND ADVISORY PROCEDURES

A. Strengthens the pre-negotiation procedural requirements under existing law (e.g., public hearings, advice from the ITC) to include nontariff as well as tariff matters and trade policy development and priorities.

B. Expands the private sector advisory committee functions to include information and advice on development and implementation of overall U.S. trade policy and priorities, as well as negotiation issues; expands the advisory committee structure and advice to the Congress.

C. Expands consultation requirements between the USTR and the Congress:

1. Requires consultation and advice from the existing congressional advisors on trade policy development and priorities, as well as negotiations; provides

for additional special congressional advisors on specific policy matters or negotiations.

2. Requires USTR consultations at least four times a year with the Committees on Ways and Means and Finance on the development, administration, and implementation of overall U.S. trade policy matters and specific actions under the trade laws.

G. MISCELLANEOUS TRADE LAW PROVISIONS

A. Tightens Time Limits for National Security (Section 232) Relief. Imposes a nine-month time limit for national security investigations by the Secretary of Commerce. Imposes a 90-day time limit for the President to decide whether to restrict imports that threaten the national security; he must proclaim action with 15 days. Provides explicit authority for the President to enforce bilateral agreements negotiated on machine tools pursuant to the President's decision of May 1986.

B. Provides for reallocation of GSP benefits to certain debtor countries by waiving product "competitive need" ceilings under existing authority if certain circumstances exist, including good faith efforts by the country to meet its debt obligations.

C. International Trade Commission:

1. Requires the ITC to submit to Congress and to the USTR, on an annual basis, studies on key sectors of the U.S. economy, focusing on global competitiveness, application of U.S. trade laws and policies, and implications for U.S. national economic security. Such reports would be taken into account by the USTR in developing its trade policy agenda.

2. Designates the ITC as an "independent regulatory agency" for purposes of the Paperwork Reduction Act of 1980.

3. Allows the ITC not to release confidential business information to the President or the Congress in section 332 investigations without the consent of the affected party.

4. Establishes an ITC trade impact monitoring system.

5. Directs the Chairman to request a section 332 investigation and a report by the ITC within 9 months, to assess whether the miscellaneous tariff provisions included in this legislation have resulted in decreased costs to U.S. consumers or other economic benefits.

6. Improves and broadens the scope of the Trade Remedy Assistance Office by assuring its independence in the ITC and expanding its functions to include technical and legal assistance and advice to small business and other eligible petitioners in preparing petitions and obtaining trade law remedies.

D. Creates a scofflaw penalty provision that directs the Secretary of the Treasury to prohibit the importation of foreign goods by any person that either was convicted of, or assessed a civil penalty for, three separate violations of one or more customs laws

involving fraud or criminal culpability over a seven-year period.

E. Provides specific enforcement authority to prevent circumvention of negotiated quantitative restraints on steel imports.

F. Expresses the sense of the Congress that the objectives of the 1983 Joint Policy Statement on Energy Cooperation as it relates to U.S. exports of coal to Japan have not been achieved. Urges the President to direct the USTR to negotiate an agreement under which Japan would import U.S. coal on a market-share basis equivalent to Japan's market share of steel products exported to the United States.

G. Restores explicit authority for the Customs Forfeiture Fund.

H. Increases from $5,000 to $100,000 on the first offense and $250,000 for subsequent offenses the maximum penalty for intentional mismarking of the country of origin on imported goods.

I. Authorizes the President to withdraw, suspend, or limit duty-free treatment on particular articles under the Caribbean Basin Initiative in lieu of removing country beneficiary status.

J. Requires an impact statement from the President to the Committees on Ways and Means and Finance 60 days in advance of issuing a regulation or Executive order or proposing legislation that would have a significant impact on competitiveness, subject to a national interest or emergency waiver.

K. Requires the USTR, within 13 months, to issue an updated report on wine trade barriers.

L. Sense-of-Congress provision that the USTR shall take all steps to conclude as soon as possible all pending section 301 cases involving unfair foreign agricultural export practices, including export subsidies and differential export taxes.

M. Sense-of-Congress provision stressing the need to eliminate unfair practices and foreign barriers affecting U.S. agricultural exports and urging the USTR to take all steps and use all its authority to achieve the elimination of such practices and barriers, including, but not limited to, specified barriers in the European Community, Japan, Korea, Taiwan, India, Canada, Argentina, and other countries affecting beef, rice, citrus, feedgrains, fruits and nuts, forest products, and other products.

N. Requires the President to negotiate trade agreements with each foreign country from which the United States imports 50,000 or more automobiles in order to eliminate unfair, restrictive, or discriminatory practices in the maritime transportation of such automobiles. Also requires a semiannual report on the progress of negotiations.

O. Expresses the sense of Congress that the Congress strongly supports current negotiations to increase opportunities for U.S. automobile parts producers to supply parts for Japanese automobiles; determines that the success of such negotiations will be measured in part by a significant increase in U.S. sales; and

directs the Administration to report to Congress on the negotiations and on any agreements reached.

TITLE II. TELECOMMUNICATIONS

A. Provides Specific Authority and Remedies to Address Lack of Foreign Market Openness in Telecommunications Trade

1. Requires USTR investigation of foreign trade barriers to telecommunications exports and determination within six months as to whether the barriers deny fully competitive foreign market opportunities to U.S. firms. Petitions by interested parties and self-initiation also may prompt an investigation and final determination. The USTR can exclude countries if their market is not substantial. Requires reports to Congress.

2. Requires the President to negotiate with countries identified under subparagraph 1 and lays out objectives of negotiations. If agreement is not reached, the President is required to take certain countermeasures within a time certain (from 18 months to three-and-one-half years, depending upon subsequent Presidential decisions and Congressional action) in order to achieve the objectives. He is given a broad selection of options for such action.

3. On the basis of annual reviews, if the USTR determines a country is not in compliance with its telecommunications agreement, or otherwise denies fully competitive market opportunities under the agreement, the USTR is required to take action to offset the violation and restore the balance of concessions.

4. Provides three-and-one-half-year negotiating authority, "fast-track" Congressional implementation, and compensation authority in the event that retaliatory actions taken by the President or the USTR are GATT-illegal. Defines telecommunications product, and specifies that nothing in the Act shall be construed to require action inconsistent with U.S. international obligations.

TITLE VIII. TARIFF AND CUSTOMS PROVISIONS

Includes seventy-five miscellaneous trade and tariff issues covering duty suspensions, duty-free measures, classification changes, and customs-related nontariff matters which were included in H.R. 3, as introduced, as well as those from H.R. 5686 as it passed the House last year, with the following amendments:

1. The television apparatus and parts provision was amended to temporarily suspend the duty on TV picture tubes, 30 inches and over, through September 30, 1988.

2. Bicycle tires were added to the bicycle parts temporary duty suspension.

3. The casein provision was amended to change classification of casein to schedule 1 for dairy products, but retain free rate of duty.

4. The polyacrylate polymer provision was amended to provide retroactive application to July 1, 1985.

5. The bicycle speedometer provision was deleted.

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